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Special Political and Decolonization Committee (Fourth Committee)

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Held at Headquarters, New York, on Wednesday, 6 October 2010, at 3 p.m.

Chairperson: Mr. Chipaziwa (Zimbabwe)
later: Mr. Ilisiuk (Poland)
later: Mr. Chipaziwa (Zimbabwe)

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The meeting was called to order at 3.20 p.m.

Agenda item 59: Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (A/65/23 and Corr.1, A/65/306 and A/65/330)

Question of Gibraltar (A/C.4/65/2)

1. **Mr. Oyarzun** (Spain) recalled that the General Assembly had repeatedly recognized in its decisions and resolutions that the colonial situation in Gibraltar was in violation of the Charter of the United Nations because it undermined the unity and territorial integrity of Spain. The principle of self-determination could not be applied to the decolonization of Gibraltar because the current inhabitants were not a colonized people but had been one of the main instruments used by the United Kingdom to dispossess the indigenous Spanish population. The United Nations doctrine on the decolonization of Non-Self-Governing Territories firmly established the protection of the rights of the indigenous inhabitants vis-à-vis the interests of the colonizers.

2. In the case of Gibraltar, there were two overlapping disputes: the first, on sovereignty, referred to the territory ceded under the Treaty of Utrecht that must be returned to Spain in application of the United Nations decolonization doctrine; the second, concerning the isthmus, which had been illegally occupied by the United Kingdom and over which Spain must recover jurisdiction. Although attempts had been made to convince the Committee that the two issues should be considered separately, the United Nations had consistently held that in the case of Gibraltar those disputes were inseparable since they constituted a clear violation of the decolonization doctrine.

3. The United Nations had adopted decisions and resolutions every year since 1964 calling for bilateral negotiations between the United Kingdom and Spain with a view to reaching a negotiated solution that took into account the interests of the inhabitants of the colony. His Government once again affirmed its readiness to resume direct talks with the United Kingdom.

4. The United Kingdom and the local government could not use the new Constitutional Decree or the vote in a referendum to justify not complying with United Nations resolutions. Attempts to remove Gibraltar from the list of Non-Self-Governing Territories without following the relevant procedures established by the Organization were equally unacceptable. Furthermore, the United Kingdom could not claim that its commitment to the people of Gibraltar under the new Constitutional Decree not to reach any agreements or understandings on the issue of sovereignty against their wishes justified not resuming the negotiations with Spain which had been suspended in 2002; or describe United Nations doctrine as anachronistic, its criteria as outdated and the practices of the Special Committee on Decolonization as manipulative; or attempt to abandon the principle of territorial integrity.

5. His Government would continue to work within the Forum for Dialogue on Gibraltar with a view to resolving issues relating to local cooperation for the social welfare and economic development of the inhabitants of the Campo de Gibraltar and Gibraltar. At the ministerial meeting held in July 2009, the parties had drawn up agreements on six new areas of cooperation which would be formally adopted at the fourth ministerial meeting in December 2010 and would have a clear impact on the well-being of the inhabitants of Gibraltar and the Campo de Gibraltar.

Hearing of representatives of the Non-Self-Governing Territory

6. **The Chairperson** said that, in line with the Committee's usual practice, representatives of the Non-Self-Governing Territory would be invited to address the Committee and would withdraw after making their statements.

7. **Mr. Caruana** (Chief Minister, Gibraltar) said that some countries, led by Spain, continued to put forward the sterile argument, embodied in anachronistic and ambiguous resolutions, that the principles of the Declaration on the Granting of Independence to Colonial Countries and Peoples should be ignored and that the United Kingdom and Spain should engage in bilateral negotiations in which the wishes of the people of Gibraltar would count for nothing. That approach was undemocratic and, contrary to assertions made by Spain, would never be supported by the European Union or the North Atlantic Treaty Organization, which placed respect for the fundamental principles of democracy and human rights at the core of their positions on all issues. In claiming that the people protected by the Declaration were not the current inhabitants of Gibraltar, but the Spanish people, Spain was overlooking its own colonial history in the

Americas and, indeed, its colonial presence in Africa, where it held a dozen enclaves. The passage of time could not simultaneously support two diametrically opposed positions: Spain's claim to Gibraltar and its maintenance of enclaves in North Africa.

8. Since Spain maintained that the Treaty of Utrecht and subsequent treaties under which it had ceded sovereignty to the United Kingdom in perpetuity remained valid, it could not argue that its territorial integrity had been violated and that it must regain sovereignty over Gibraltar in application of the decolonization doctrine of the United Nations. For the people of Gibraltar the Treaty of Utrecht was irrelevant to the issue of their right of self-determination; moreover, they did not consider that being British or being Spanish were the only choices open to them.

9. Whether Spain believed the issue to be a political or legal problem, its position on Gibraltar was untenable. If the issue was political, then as a leading European democracy Spain must apply democratic principles in the resolution of the dispute and respect the wishes of the inhabitants. If the issue was legal, then Spain should be willing to refer it to the International Court of Justice.

10. Bilateral discussions between the United Kingdom and Spain under the Brussels Statement would never resume, and therefore should not be mentioned in resolutions on Gibraltar; instead, a reference to the need to respect the wishes of the people of Gibraltar should be inserted. The Government of the Territory remained committed to the Trilateral Forum of Dialogue. It was also committed to reaching agreement with Spain on areas for cooperation. However, it would never make concessions to Spain's position on sovereignty, including sovereignty over its territorial waters, which Spain was disputing in flagrant violation of its legal obligations under the United Nations Convention on the Law of the Sea. The United Nations should recognize the rights of Gibraltar and remove it from the list of Non-Self-Governing Territories.

11. **Mr. Bossano** (Leader of the Opposition, Parliament of Gibraltar) said that Gibraltarians did not want any discussion of their country's sovereign status and were confident that the United Kingdom would maintain its position of holding no talks unless so desired by the people of Gibraltar. The interests of the inhabitants of the Territory must be paramount, as provided in Article 73 of the Charter.

12. Spain's proposals for annexation would replace an unsatisfactory colonial situation by an even worse one and would lead to the disappearance of the people of Gibraltar as a separate and distinct member of the international community. Gibraltar would not be satisfied until Spain accepted it as a nation or until the Committee honoured its obligations under the Charter of the United Nations and rejected Spain's arguments.

13. The resolutions adopted annually by the United Nations undermined confidence in the Organization. That outdated and discredited approach made nonsense of the Secretary-General's call, in February 2010, for creative solutions for the remaining Territories, which would be possible only if each Territory achieved a full measure of self-government. The Committee should entrust the decolonization process to the peoples who lived in the Territories.

14. At its 2010 seminar in New Caledonia, the Committee had been reminded that, in addition to indigenous people, the descendants of settlers had the right to self-determination. Spain rejected that right in the case of Gibraltar and claimed its own right to retrocession under the Treaty of Utrecht, even though the right of self-determination was established as a peremptory norm of international law which took precedence over any existing treaty provisions. In its advisory opinion on Kosovo, the International Court of Justice had concluded that the concept of territorial integrity did not preclude the rights to independence and the exercise of self-determination, thereby exposing the fallacy of Spain's argument rejecting Gibraltar's separate nationhood and sovereignty.

15. Spain's aggression and invasion of Gibraltar's territorial sea was in clear violation of Article 74 of the Charter and the international law of the sea. In the previous week, an incident had occurred at sea when the Spanish Guardia Civil had physically removed a Spanish citizen from the custody of the Royal Gibraltar police. The Spanish position that Gibraltar had no territorial waters must be rejected once and for all by the United Kingdom.

Question of Western Sahara (A/C.4/65/7 and Add.13, 20, 23, 25-30, 32, 33, 35, 37-39, 41, 43, 48, 56, 63, 70,•71, 88)

Hearing of petitioners

16. **The Chairperson** said that, in line with the Committee's usual practice, petitioners would be invited to address the Committee and would withdraw after making their statements.

17. **Ms. Alisalem**, speaking in her personal capacity, said that because she had been born and raised in a refugee camp in southern Algeria, she had witnessed the tragic consequences of displacement and human rights violations, and she had grown impatient with broken promises. The people of Western Sahara had placed their hope in the United Nations to bring about peace and justice through a referendum on self-determination. After two decades, all they had seen was empty rhetoric and repetitive resolutions. Only a shrinking minority in Western Sahara still saw the United Nations as an inspiration for freedom; that distrust had been born of years of disappointment and continuous human rights violations. The Government of Morocco was ignoring international law and its human rights violations had gone unpunished, undermining the credibility of the United Nations.

18. *Mr. Flisiuk (Poland) took the Chair.*

19. **Ms. Teuwen** (Comité belge de soutien au peuple saharoui) said that numerous reports by international bodies and organizations had clearly documented the increase in human rights violations committed by the repressive regime set up by Morocco in the occupied Territory of Western Sahara. Yet despite the lack of political progress and increasing repression and human rights violations, the Sahrawi people were not giving up. Contacts between human rights activists working in the occupied Territory of Western Sahara and those working within the Sahrawi refugee camps were becoming more frequent. Despite the repression against Moroccan citizens who spoke out against the human rights violations, more and more Moroccans were endorsing the right of self-determination of the Sahrawi people. The mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO) must be extended so as to protect human rights in Western Sahara. The decolonization of Western Sahara must be carried out in conformity with international law and the relevant resolutions of the Security Council and the General Assembly by means of a referendum on self-determination for the Sahrawi people.

20. **Mr. Machín**, speaking in his personal capacity as a lecturer at the University de Las Palmas de Gran Canaria, said that although the situation in Western Sahara was very different from what it had been in 1975, Algeria had not changed its position, nor had it adjusted to the changes that had occurred in Morocco, which was now in the vanguard of the defence of citizens' rights. The Sahrawi people were suffering because of the lack of agreement on how to conduct an electoral census, which in turn precluded the possibility of a referendum. The Moroccan proposal to establish autonomous rule for the area would enable the inhabitants of the refugee camps in Hamada to return to their former territory, reuniting families and opening the way for development and peace. That proposal, which had been welcomed by the refugees in the camps, was being challenged by certain organizations and individuals who claimed to be protecting the interests of the Sahrawi people but who really were only trying to poison relationships between third countries and Morocco. Nevertheless, with direct negotiations between Algeria and Morocco and the subsequent collaboration of the Sahrawi people, the proposal would provide an excellent solution. The international community should spare no effort in acting for the common good.

21. **Mr. Briones Vives** (International Association of Jurists for Western Sahara) said that nevertheless, it was not an administering Power but merely an occupying Power in Western Sahara; consequently, its continuing presence there was illegal. Nevertheless it was not exempt from the obligation to comply with the relevant international norms relating to Non-Self-Governing Territories, in particular, General Assembly resolutions 1514 (XV) and 2625 (XXV). Morocco's systematic repression of human rights constituted a serious crime which violated the status of Western Sahara as a Non-Self-Governing Territory and the right of its people to self-determination. The exploration and exploitation of natural resources in disregard of the interests and wishes of the people of Western Sahara was a further violation of international law. The United Nations should not allow the conflict regarding Western Sahara to continue. Morocco, France and Spain were not seeking a consensual solution, but were trying to impose formulas such as autonomy or free association in order to bury the legitimate aspirations

of the indigenous population for an independent country. The United Nations should reactivate the referendum, which must include independence as one of the options.

22. **Ms. Nakagawa** (Hagoromo University of International Studies) said that in the course of her research in the Western Saharan region over the past six months, she had found that the provinces of southern Morocco had made great progress, but that was not the case with the Western Saharan population. Much of the humanitarian aid that was sent for them was being diverted. Most Western Saharans, including those confined in Tindouf, were clearly in favour of the autonomy proposal, despite the repression of the Frente Polisario against anyone who tried to obtain detailed information on the matter. A case in point was that of Mustapha Salma Ould Sidi Mouloud, whose recent abduction demonstrated that freedom of expression was not guaranteed. All parties concerned, including the Committee, must address the deteriorating security situation in the Maghreb and Sahel region, for the benefit of the entire continent and of the region in particular. The Frente Polisario and the host country must cooperate with other parties in the region to keep the roads open in the south-eastern area of the Tindouf camps. The United Nations should work to enable the inhabitants of the Tindouf camps to enjoy freedom of expression and information and, in addition, the United Nations High Commissioner for Refugees (UNHCR) should intervene to ensure the application of article 12 of the 1951 Convention relating to the status of refugees, as well as the relevant resolutions.

23. *Mr. Chipaziwa (Zimbabwe) resumed the Chair.*

24. **Ms. Smith de Cherif** (Sahara Fund Inc.) said that three Sahrawi human rights activists had been languishing in prison in Morocco for almost a year, after having been arbitrarily arrested and charged with high treason, which carried the death penalty in Morocco. Their so-called crime, and that of four others who had been conditionally released, was to visit their relatives in refugee camps. As a medical doctor, she was concerned about the deteriorating health of the prisoners, who had been deprived of daylight and medicines for at least five months. Overcrowding in Moroccan prisons also encouraged the spread of infectious diseases.

25. Another approaching milestone was the 35th anniversary of the tripartite Madrid Accord, Spain's dishonourable formula for retreating from its last overseas colony. Spain still had political, legal and administrative responsibilities over Western Sahara, since the agreement did not transfer sovereignty over the Territory. Noting that elsewhere in the Muslim world, despair had led to Islamic radicalization, she urged the United Nations to organize a free and fair plebiscite of self-determination, without further delay, for the Sahrawi people.

26. **Ms. Adem**, speaking in her personal capacity as an Algerian student, said that failure to resolve the conflict between Western Sahara and Morocco was impacting the stability of the entire region. Human history had witnessed too many bloody wars in which millions of people had died fighting for their freedom. No matter how free and democratic most parts of the world had become, freedom and democracy could not fully exist as long as people like the Sahrawis did not enjoy the right of self-determination. Noting that the question of Western Sahara had been on the Committee's agenda for many years, she wondered whether the role of the United Nations would forever be confined to providing humanitarian aid to the displaced Sahrawis, or instead would be scaled up to address the root causes of their displacement.

27. **Ms. Thomas**, speaking in her personal capacity as an attorney and a former member of the Identification Commission of MINURSO, said that there was no technical or other reason why a referendum could not take place if Morocco wanted it to and was willing to abide by the commitments it had made in the 1991 ceasefire agreement and settlement plan. It was no coincidence that Morocco had decided to withdraw from the process shortly after the provisional list of voters had been published in 1999. Morocco knew that if a free and fair referendum were held, the Sahrawis would probably vote in favour of independence. Recent evidence suggested that Morocco was continuing to exploit the minerals and fishing resources of the Territory. It was also significant that, although the Frente Polisario supported expanding the mandate of MINURSO to include the monitoring of human rights, Morocco did not.

28. The people of Western Sahara must be given the right to choose. The right of self-determination could not be satisfied by limiting the choices available to a population to the one that was most convenient for the international community. The United Nations should

insist that Morocco abide by the terms of the ceasefire agreement and the rules of international law and should take steps to ensure that the conflict was resolved on honourable terms.

29. **Mr. Assor** (Surrey Three Faiths Forum) said that there was still flagrant injustice in the Tindouf camps. The Frente Polisario had recently blocked the United Nations-sponsored family visit exchange programme, in spite of appeals by UNHCR. The inmates of the camps were in a state of misery, disease and starvation owing to the misappropriation and diversion of aid distributed by the United Nations. Yet the United Nations seemed more concerned with the political side of the conflict, whereas his organization focused on the humanitarian side effects. The plight of the people in Tindouf was only getting worse under the untenable status quo. Meanwhile, the Frente Polisario and Algeria were shamelessly exploiting the situation to call for further aid. The Frente Polisario had placed mines in the demilitarized zones and was spending more on military projects than UNHCR was spending on the refugees. Since the beginning of 2010, close to 1,400 Sahrawis had fled the Tindouf camps to return to Morocco, with all the risks that entailed. The Algerian authorities must lift the blockade imposed on the camps and permit visits to ascertain whether food aid was reaching its intended destination.

30. **Ms. Warburg** (Freedom for All) said that for the past 34 years, the world's second oldest group of refugees had been forcibly detained in Tindouf, and were being denied their most basic human rights and freedoms. There was an increasing sense of disillusionment in the camps and among Frente Polisario members; all dissent was brutally and violently suppressed, and there was absolutely no freedom of expression, movement or association. Two Frente Polisario members, Mr. Moustapha Salma Ould Sidi Mouloud, and Mr. Ahmed Alkhalil, had vanished on their return to Algeria following family exchange visits. The Committee must urgently investigate the whereabouts of all those whose safety and security had been put at risk after participating in United Nations-sponsored activities.

31. Sahrawis who had escaped from Tindouf had described the brutality, arbitrary punishment and imprisonment and widespread use of torture. It was little wonder that since January 2010, more than 1,500 people had fled Tindouf for better lives in Morocco, where they had been welcomed, housed, given training and employment, and afforded their full democratic human rights. In Laayoune, human rights activists were establishing institutions and informing their fellow citizens of their democratic rights and there was a tangible sense of optimism and pride. They supported Morocco's plan for autonomy, and believed it would enable them to be reunited with their fellow Sahrawis in Tindouf.

32. **Lord Newall** (International Committee for the Tindouf Prisoners) said that it was difficult to understand why the Frente Polisario insisted on a referendum when the United Nations had already determined that it was unworkable. Several Frente Polisario leaders had left the Tindouf camps in Algeria to join their families in Morocco when they had realized that the Algerian military regime was using them as a political means to an end. The Algerian authorities and the Frente Polisario leadership were responsible for flagrant violations of human rights. The arrest of Mustapha Selma proved that there was no freedom of expression or movement in the Tindouf camps. The Frente Polisario must release him and the Algerian authorities must launch an international inquiry into the fate of the people who had disappeared in the Tindouf camps.

33. The Moroccan proposal to grant full autonomy to the Sahrawis of Western Sahara would afford them democratic self-rule and the ability to manage their own affairs. The status quo in the Saharan conflict suited no one but Algeria, which used the issue to divert attention from its failure to introduce domestic reforms. The suffering of the people in the Tindouf camps must be stopped, and direct talks between Morocco and Algeria should be encouraged with a view to reaching a viable solution in the framework of a negotiated political settlement of the Saharan question.

34. **Ms. Bahaijoub** (Family Protection) stressed the importance of conducting a census of refugees in the Tindouf camps in order to refute or confirm reports that the camps were filled with victims of the 1980s drought in the Sahel. While rejecting a census, Algeria supported a referendum for the Sahrawis, but had already determined the outcome by recognizing the so-called Sahrawi Arab Democratic Republic. Meanwhile, the inhabitants of the Tindouf camps had no freedom of movement; their daily lives were strictly controlled, and they were subjected to intimidation and indoctrination.

35. The argument that the Bu Craa phosphate mines would provide sufficient wealth for the population of Western Sahara to be economically viable was questionable. On the other hand, Algeria generated some US$ 100 billion in revenue from oil exports, just one per cent of which could be used to help those in the Tindouf camps improve their conditions. While the Security Council sought a lasting political solution, the population in the Tindouf camps should be allowed to choose where they wished to live. The final settlement of the issue could only be negotiated between the Governments of Morocco and Algeria. The camps should no longer be used as a smokescreen to divert attention from Algeria's internal problems. Autonomy was the only viable solution.

36. **Mr. Eriksson**, speaking in his personal capacity, said that since concluding a ceasefire with the Frente Polisario, Morocco had made tremendous progress in terms of both human rights and economic development. It had also contributed a massive amount to the infrastructure in the Western Sahara region. The refugees in the Frente Polisario-controlled Algerian camps had seen little improvement in their situation, however. Owing to massive corruption by the Frente Polisario camp management and violations of the rights of refugees by the Algerian authorities, the majority of camp occupants had no hope for the future. Support for the Frente Polisario was constantly decreasing, and as people lost all hope of being able to leave the camps, they looked for other alternatives, including religious extremism, terrorism, kidnapping and smuggling. Al-Qaida in the Islamic Maghreb (AQIM) had managed to recruit hundreds of Frente Polisario members.

37. An independent Western Sahara would be a human and economic catastrophe for the whole region: Western Sahara would in the best case be led by a totalitarian Frente Polisario and would be controlled by the Algerian military junta; such a State would enable AQIM to gain free access to an Atlantic port and would put even more pressure on weak surrounding States like Mauritania, Niger and Mali, creating a domino effect of failed States; and terrorist attacks in the Maghreb, Sahel and South Central European countries would increase substantially. On the other hand, the autonomy plan under Morocco's sovereignty would ensure a region strong enough to withstand the influence of AQIM; closure of the refugee camps in Algeria by refugees returning to Western Sahara; decreasing pressure on States like Mauritania, Mali and Niger; the beginning of normalized relations between Morocco and Algeria; and increased human and economic development for the whole region.

38. **Mr. Ruiz García** (Observatorio de Derechos Humanos de Castilla La Mancha para el Sáhara Occidental), speaking also in his personal capacity, said that the Moroccan Government's systematic violations of the rights of the Saharan people included violations of article 13 of the Universal Declaration of Human Rights. The population of Western Sahara did not enjoy the right to freedom of movement and residence, either in their own land or anywhere else; they could not freely leave their country and return without fear of being detained and tortured. Examples included the imprisonment, in October 2009, of seven Sahrawis accused of high treason against the Moroccan State, whose only crime had been to exercise the right to freedom of movement and visit their relatives in the Tindouf refugee camps; and the case of Saharan human rights activist Aminetu Haidar, who had been detained in November 2009 upon her return to Western Sahara from Spain, and eventually deported, with the collaboration of the Spanish Government. Because of the abuses perpetrated by the Moroccan police against Sahrawis returning from the camps and against their relatives and friends who went to welcome them back, in the current year the refugees had been accompanied by international civilian observers, who had also suffered assaults by the Moroccan police. The international community must support people of Western Sahara; the behaviour of Morocco, the occupying Power, must not go unpunished.

39. **Mr. El Moussaoui** (Moroccan Royal Advisory Council on Saharan affairs (CORCAS)) said that CORCAS was composed of parliamentary, municipal and community officials, elected representatives of chambers of commerce, industry and agriculture, tribal sheiks and representatives of NGOs, all working to build up their region within their Moroccan homeland. The 2007 Moroccan proposal to grant autonomy to the Saharan region would allow the population to manage their internal affairs and control of the financial resources needed to develop the region, and would ensure their full and active participation in the politics, economy, society and culture of Morocco. The proposal was in accordance with international law, the Charter of the United Nations, General Assembly and Security Council resolutions and the right to self-determination. All the Security Council resolutions on the question of Western Sahara adopted from 2007 onwards had taken a positive view of Morocco's efforts to move ahead and no longer referred to the

referendum as the sole tool for guaranteeing the right to self-determination. The former Personal Envoy of the Secretary-General himself had declared to the Security Council in April 2008 that independence for the Sahara was an unrealistic and unattainable option.

40. Throughout the informal and official rounds of talks called by the current Personal Envoy of the Secretary-General, Morocco had taken a constructive approach and asked the other parties to make suggestions to flesh out its autonomy proposal. CORCAS had participated actively in the discussions and had endorsed the democratic path chosen by Morocco and conveyed the full support of the population of the region for the negotiations on their future. The other parties — Algeria and the Frente Polisario — had adopted an obstructionist attitude, holding rigidly to past positions based on a restrictive interpretation of the principle of self-determination. Algeria's responsibility in creating and maintaining the artificial dispute needed no demonstration, for it had set up and sheltered in its territory a group it had armed, the Frente Polisario, in order to serve its hegemonic goals in the region, in the process twisting the concept of human rights to its own ends. The international community must demand that international and non-governmental organizations be given free access to the Tindouf camps in Algerian territory, so that they might verify the human rights violations being committed against any dissenting Sahrawi, the most recent being the case of Moustapha Salma Ould Sidi Mouloud. CORCAS was counting on the support of the Security Council to help advance the ongoing political process and hoped that the other parties would enter into substantive negotiations in the interests of a prosperous and democratic Maghreb and good neighbourliness.

41. **Ms. Bouaida**, speaking in her personal capacity as a deputy in the Moroccan Parliament representing her native Saharan region, said that since 1975, the Southern Sahara had received more investment than anywhere else in Morocco and had become a remarkable model of development in areas such as infrastructure, economy, education and health. The Sahrawis themselves had participated in the decision-making process as stakeholders. It should be recalled that in the latest national elections, the Saharan region had had the highest participation rate in the country and one of the best representations in terms of tribal balance, the educational level of candidates and the participation of women.

42. That dynamic development would continue only if it was consolidated through the autonomy plan proposed by Morocco, which was the only way to solve the decades-long conflict and allow the Sahrawis to live in a stable region and be effective actors in the North Africa region as a whole. It was important to stop the manipulation by Algerian political and military interests. A historic opportunity to solve the conflict had presented itself and was not likely to be repeated in the future.

43. **Ms. Nedrebo** (United Nations Association, National Capital Area) said that the mandate of MINURSO should be extended to cover human rights violations in the occupied territories of Western Sahara. Those abuses had been documented by Amnesty International and Human Rights Watch. In addition, the forthcoming renewal of the European Union's fisheries agreement with Morocco should be examined in the context of international law, taking into account the opinion of the International Court of Justice. A free and fair referendum must be held. She hoped that some day the refugees would be able to return to their ancestral homeland.

44. **Mr. Moniquet** (European Strategic Intelligence and Security Center (ESISC)) said that the Frente Polisario, which had been the subject of considerable in-depth analysis by ESISC, was posing a danger to the entire region. Al-Qaida in the Islamic Maghreb (AQIM) had moved into the south and the Sahel, taking advantage of weak border controls; that change had brought a whole new dimension to the conflict in Western Sahara. The Frente Polisario, which had been engaged in a futile struggle for over 30 years, was clearly unable to offer any real prospects for the future to its followers. The kidnapping of three Spanish human rights activists in November 2009 was one example of the seriousness of the situation and the rise of terrorism.

45. His organization had carried out a comparative study of the Frente Polisario and the Irish Republican Army (IRA). Both organizations had engaged in an armed struggle for independence, and both had failed to achieve their goals; yet, the IRA was participating in the peace process, while the Frente Polisario refused to do so. Clearly, the isolation of the Frente Polisario leadership and the fact that they had no legitimate

mandate from the people helped explain the current impasse in the conflict. The renewed interest of the international community in the question of Western Sahara was a positive trend which offered a unique opportunity for the Frente Polisario to demonstrate its political maturity and pragmatism.

46. **Mr. Fateh** (Association pour la protection des droits de l'homme) said that he had spent more than 35 years in the Tindouf camps, where he had experienced great suffering, injustice and acts of physical torture inflicted by the leadership of the Frente Polisario and members of the Algerian intelligence services. He had now regained his freedom, having evaded the control of the militias and the Algerian army, which continuously patrolled the area separating the Tindouf camps and the Moroccan and Algerian borders in search of those hoping to escape from the camps. He welcomed the opportunity to voice his anger concerning the arbitrary treatment meted out to the camps' inhabitants, who lived under a system of oppression that they would do anything to escape. Indeed, he considered that most members of the militias would also welcome the opportunity to flee, if only it were possible. Drawing attention to the decline over the past year in support for the Frente Polisario among its own ranks and the mounting popular resistance to the acts of injustice committed against the people in the camps, he called on the Committee to protect and assist those who wished to leave the camps and to intervene to offer the people there the hope of a better future.

47. **Mr. Hutchinson**, speaking in his personal capacity as a Socialist deputy in the Belgian Parliament and a member of the European Parliament delegation responsible for relations with the countries of the Maghreb, said that Algeria and the Frente Polisario leaders were turning a deaf ear to the democratic proposal made by Morocco, which had been given credence by those who knew the situation on the ground, among them notably the successive Personal Envoys of the Secretary-General. The proposal offered genuine regional autonomy for the Sahara, together with a political amnesty and specific commitments to allow participation by all political forces when regional elections were called; it promised massive investment by the Moroccan Government to break the region's isolation while respecting its culture and history. The assertions and proposals of the Personal Envoy of the Secretary-General in his latest reports deserved to be heeded, for he spoke of pragmatism and the harsh daily realities of those who were paying for the stubbornness of increasingly isolated political leaders who were responsible for daily human rights violations, as attested to by the many ex-Frente-Polisario militants who had escaped to Moroccan Sahara.

48. The renewed negotiations between the parties must centre, first and foremost, on the well-being of the population concerned. The Sahrawi people were now facing the problem of safeguarding their identity in a globalized world that had changed radically since the outset of the conflict. A way out had to be found that would benefit not only the people living in the Algerian camps but also all those in the Maghreb who expected their Governments to meet the social and economic challenges that would allow them a better life.

49. **Ms. Cervone** (Internationale des femmes démocratique chrétiennes) said that the question of Western Sahara should have been settled over three decades earlier when Morocco had recovered its Sahara. Readily accessible documents and colonial archives made it clear that the so-called "Western" Sahara had always been Moroccan and that there had never been a "Saharan" State in the region but rather a spurious entity invented by Algeria. The principle of self-determination behind which Algeria hid its expansionist aims could in no way take precedence over the right of countries to defend their unity and territorial integrity. The United Nations Declaration on decolonization itself guaranteed both principles equally.

50. Women and children living in the Tindouf camps, who were subject to the whims of the armed Frente Polisario militias, were the most vulnerable link in the chain of suffering that spanned more than 35 years. The women lacked the means to support their families in a hostile desert environment; they were subjected repeatedly to rape by the militias, bearing their children under appalling hygienic conditions, and were victims of the widespread practice of polygamy. The women were the last to receive health care and had no voice in the matters that affected them. She urged the Committee to intervene to protect the women of Tindouf and ensure a minimum of rights for them.

51. **Mr. Ducarme**, speaking in his personal capacity as a member of the Belgian Parliament and its Foreign Affairs Committee, said that the practice in the Tindouf camps of forcibly separating Sahrawi children from their families and sending them to study abroad was a direct violation of both the Convention on the Rights of the Child and the Convention relating to the Status of

Refugees. Sahrawi families also continued to be arbitrarily separated by the closure of the border between Morocco and the refugee camps. The lack of security in the Sahelo-Saharan region, where no less than 11 non-State armed groups held sway, some with links to international terrorism, and where armaments of all kinds proliferated, was particularly alarming. Faced with the plight of the civilian populations on both sides and the emergence of such new dangers, the parties to the conflict in Western Sahara must find a way to compromise and to adopt public policies that would improve the living conditions of Sahrawi families.

52. **Mr. Abdellah** (Association Sud Migration et Developpement Sahel Dchira) said that, as an expert on human and social development issues, he could confirm that when Spanish colonial rule had ended in the Sahara region, the departing forces had left Saharan society without proper infrastructure such as adequate housing, road networks or access to education. By contrast, the Moroccan authorities had taken action to provide essential services, building ports, airports, hospitals, schools and health centres, installing a range of facilities, including extensive tourism facilities, and offering all sectors of society, particularly women, opportunities for training and participation in cultural life and social development. Committed as it was to the principles underpinning democracy, justice and the rule of law, the Moroccan State had for years been open to the participation of civil society organizations in development in the region. Indeed, there were some 2,700 associations operating in areas of activity including children's rights, women's issues, health services and environmental protection. Thus, much had been done by Morocco to promote human development and social services in the region.

Rights of reply

53. **Mr. Parham** (United Kingdom), replying to the Spanish delegation's statement about Gibraltar, reaffirmed the United Kingdom's long-standing commitment that it would never enter into arrangements under which the people of Gibraltar would pass under the sovereignty of another State against their wishes, nor would it enter into a process of sovereignty negotiations with which Gibraltar was not content. Although his delegation would be part of the consensus decision on Gibraltar, the reference to the Brussels Process must be seen in that context.

54. The trilateral process of dialogue on Gibraltar between his Government and the Governments of Spain and Gibraltar continued to make progress and the implementation of the historic package of agreements announced by the Tripartite Forum in September 2006 was working well, with the three parties to the Forum pledged to full implementation, according to an agreed timetable, of those areas still outstanding. The positive atmosphere of the process and the real difference the Cordoba agreements were making for people on both sides of the border underlined the value of three-way dialogue that was without prejudice to respective differences on sovereignty. His Government continued to enjoy very cordial relations with Spain and would continue to work constructively on all Gibraltar-related issues.

55. The Cordoba agreements were without prejudice to the respective positions on sovereignty, on which the United Nations did not take a view. The United Kingdom had no doubt about its sovereignty over Gibraltar and the territorial waters surrounding it, and was ready to consider any mechanism to advance negotiations that might find favour with the other two parties. The 2006 Gibraltar Constitution provided for a modern and mature relationship between Gibraltar and the United Kingdom, a description that would not apply to any relationship based on colonialism. As was well known, his Government regretted the outdated approach taken by the Special Committee on decolonization; the criteria used for delisting failed to recognize that the relationship between the United Kingdom and Gibraltar had been modernized in a way that was acceptable to both parties.

56. As a separate Territory, recognized by the United Nations and included in the list of Non-Self-Governing Territories, Gibraltar enjoyed the individual and collective rights accorded by the Charter; the new Constitution therefore confirmed the right of self-determination of the Gibraltarian people, which must be promoted and respected in conformity with the Charter and other applicable international treaties. That right was not constrained by the Treaty of Utrecht except insofar as article X gave Spain the right of refusal should Britain ever renounce sovereignty. While noting that Gibraltar did not share the view that such a constraint existed, his Government took the position that independence would be an option only with Spanish consent. Furthermore, the act of deciding to accept the new Constitution in a referendum

democratically and lawfully organized by the Government of Gibraltar with the unanimous approval of the Gibraltar Assembly had been an exercise of the right of self-determination by the people of Gibraltar. The Constitution did not in any way diminish British sovereignty of Gibraltar and the United Kingdom retained full international responsibility for Gibraltar, including its external relations and defence, and its representation in the European Union. His Government called upon the Committee to consider how it might better take account of the modern relationship between the United Kingdom and Gibraltar, which fully accorded with the freely expressed wishes of the people of Gibraltar.

57. His Government did not accept that the principle of territorial integrity had ever been applicable to the decolonization of Gibraltar, nor did it accept the assertion that the people of Gibraltar did not have the right of self-determination.

58. **Ms. Pedrós-Carretero** (Spain) said, in reply to the United Kingdom's statement, that Spain's position regarding the waters surrounding Gibraltar was unchanged. Spain recognized no United Kingdom rights over the surrounding maritime areas except those granted in article X of the Treaty of Utrecht.

59. **Ms. Bagarić** (Serbia), responding to the claim that the International Court of Justice, in its advisory opinion on the accordance with international law of the unilateral declaration of independence in respect of Kosovo, had concluded that the rights to independence and self-determination were not precluded by the concept of territorial integrity, emphasized that the Court had not expressed any value judgement on the right to proclaim independence but had merely stated, based on the question asked, that the declaration did not violate general international law because the law contained no applicable prohibition of declarations of independence. That certainly could not be interpreted as giving any territory the right to proclaim its independence in violation of the principle of territorial integrity of States or other basic principles of the United Nations, as the International Court of Justice itself had pointed out in paragraph 56 of its opinion.

The meeting rose at 6 p.m.